



## Health Savings Accounts and Medicare

- An individual who is entitled to Medicare is not HSA eligible. The key term is “entitled”, which is not synonymous with the term “eligible”. IRS Notice 2004-50 and IRS Notice 2008-59 clarify that mere eligibility for Medicare does not make an individual ineligible to contribute to an HSA and that a Medicare-eligible individual who is not actually enrolled in Medicare Part A, Part B, Part D, or any other Medicare benefit may contribute to an HSA until the month that he or she is enrolled in Medicare.
- It is important to note that entitlement to Medicare Part A is automatic for some individuals because they have already applied for and are receiving Social Security or Railroad Retirement Act benefits. However, it is not unusual for a working older person to delay receiving Social Security benefits until he/she terminates employment.
- The employee is still eligible to contribute the full family contribution to the HSA as long as he/she is the HSA account holder and is not enrolled in Medicare. It does not matter if the spouse is enrolled in Medicare - the maximum contribution remains the same. (Example 1 of Q/A-31, IRS Notice 2004-50).
- Even though the Medicare-entitled spouse cannot have an HSA in his/her name, the employee’s HSA can reimburse qualified medical expenses of his/her spouse and any tax dependents. In fact, the money in the HSA can be used to pay Medicare premiums, deductibles, co-pays and coinsurance under any part of Medicare. The only expense they cannot use the account for is to purchase a Medicare supplemental policy or “Medigap” policy. [http://www.ustreas.gov/offices/public-affairs/hsa/faq\\_using.shtml](http://www.ustreas.gov/offices/public-affairs/hsa/faq_using.shtml)



- Thus, the only requirements for the employee to reimburse his/her Medicare-entitled spouse's medical expenses through the HSA are 1) that the individual is a tax dependent or spouse or employee; 2) the expense is a qualified medical expense, and 3) that the expense is not reimbursed by any other arrangement. (IRS Notice 2004-2, Q/A 26).
- The only way to remain an HSA eligible individual would be to not enroll in Medicare or apply for Social Security benefits.
- As to Medicare entitlement: while an individual does not have to enroll in Medicare when they turn 65; under the Social Security Act, it is not possible to receive Social Security benefits for age (or disability) without receiving Medicare Part A. Medicare doesn't permit individuals to retain Social Security benefits and waive Medicare. This means that an employee would need to waive both Medicare and Social Security to contribute to an HSA.
- Once enrolled, the only way to withdraw from Medicare Part A is to submit a Request for Withdrawal of Application to the Social Security Administration, pay back all the Social Security benefits ever received plus any money paid on hospitalization coverage under Medicare A. See The Social Security Administration's HI 00801.002 "Waiver of HI Entitlement by Monthly Beneficiary."

*For additional information, please consult your Accountant or Tax Advisor.*

## Your Contact

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